

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.

8  
9 Transcript of excerpt of testimony of  
10 BRYAN ACEE  
11 May 11, 2018  
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1 THE COURT: Mr. Acee, if you'll come up,  
2 Ms. Bevel will swear you in before you're seated.

3 BRYAN ACEE,  
4 after having been first duly sworn under oath,  
5 was questioned, and testified as follows:

6 THE CLERK: Please be seated. Please  
7 state your name and spell your last name for the  
8 record.

9 THE WITNESS: My name is Bryan Acee,  
10 A-C-E-E.

11 THE COURT: Mr. Acee. Mr. Castellano.

12 MR. CASTELLANO: Thank you, Your Honor.  
13 May I have a moment to show exhibits to defense  
14 counsel?

15 THE COURT: You may.

16 MS. TORRACO: Can we approach, Your Honor?

17 THE COURT: You may.

18 (The following proceedings were held at  
19 the bench.)

20 MS. TORRACO: May I? It looks like that  
21 the Government is now going to try to admit  
22 photographs of Frankie Gallegos. And we're  
23 objecting first on a 401 basis. I don't even see  
24 how the tattoos that Frankie Gallegos wears -- it's  
25 just to Frankie, though.

1 THE COURT: Well, I think I probably  
2 crossed that in this case so far. So I'll allow the  
3 photographs.

4 MS. TORRACO: Okay. Can I just for the  
5 record also just say 403, because -- how do you feel  
6 about me arguing with you? Not good at the moment?

7 THE COURT: I'm sorry?

8 MS. TORRACO: I want you to reconsider.

9 THE COURT: Well, I think I've already  
10 probably made this decision earlier in the case, so  
11 there is -- I think there is sufficient evidence.

12 MS. TORRACO: I'll just have a standing  
13 objection, if I may.

14 (The following proceedings were held in  
15 open court.)

16 DIRECT EXAMINATION

17 BY MR. CASTELLANO:

18 Q. Agent Acee, now that this case has  
19 progressed, I wanted to call you back to talk about  
20 some of the issues that have arisen during the  
21 trial. The first one is the placement of  
22 cooperators who were in custody. And are you aware  
23 of the various cooperators being placed in various  
24 facilities while these trials have been pending?

25 A. Yes, sir.

1 Q. And as people came on to cooperate who are  
2 housed with defendants who are charged, were they  
3 moved away from those people who were still pending  
4 trial?

5 A. Yes.

6 Q. What was the purpose of doing that?

7 A. To keep them separate from the defendants  
8 for a few reasons.

9 Q. And so was one of those reasons safety  
10 reasons?

11 MR. SINDEL: I'll object to the leading  
12 form of the question. He could come up with an  
13 answer on his own.

14 MR. CASTLE: And asked and answered  
15 previously when Agent Acee was on the stand.

16 THE COURT: Overruled.

17 BY MR. CASTELLANO:

18 Q. Okay. I'm going to ask you an open-ended  
19 question, Agent Acee: Why did you separate the  
20 cooperators from charged defendants?

21 A. Simply stated, two reasons: One, safety;  
22 two, now that they're cooperating with the  
23 Government, it's not fair to have them with  
24 represented parties where they could violate  
25 attorney-client.

1 Q. Explain that a little bit further. If  
2 they're now cooperating with the Government, what is  
3 the issue with having cooperators with charged  
4 defendants?

5 A. We view cooperators as agents of the  
6 Government, for lack of a better term. So it's not  
7 fair to take someone who is cooperating and have  
8 them housed with or be able to converse with someone  
9 who is not cooperating, because they could be asking  
10 questions or overhearing things that have an  
11 attorney-client privilege. So that's something that  
12 we would take steps to avoid.

13 Q. And were all the cooperators housed  
14 together all the time?

15 A. No.

16 Q. So when there is what was called a  
17 cooperator pod at PNM North, approximately how many  
18 cooperators were there at that time?

19 A. It depended at different times, because  
20 cooperators -- they didn't all come on board at  
21 once. They came on sometimes a year apart.

22 The other thing is: They didn't all get  
23 along. So some of them have never been housed with  
24 other ones. They just couldn't set aside their  
25 differences.

1           So to answer your question specifically,  
2 as few as two together to as many as -- I think L  
3 pod was where we had the largest population, or  
4 Sandoval. And it was as many as maybe eight, eight  
5 or nine.

6           Q. And approximately how many -- just off the  
7 top of your head, how many cooperators in custody  
8 are there that you can recall?

9           A. In all the cases?

10          Q. Yes.

11          A. Somewhere between 40 and maybe 45.

12          Q. And did you also have cooperators who have  
13 not testified in this trial?

14          A. Yes.

15          Q. Have they testified in other proceedings?

16          A. Some have and some have not.

17          Q. And I think the jury has seen where there  
18 are cooperators who also were not in custody.

19          A. Yes.

20          Q. You were asked -- going back to Jose Gomez  
21 and the counts where he's alleged to be a victim,  
22 you were asked questions about him being charged on  
23 a charge called unlawful flight to avoid  
24 prosecution, or UFAP for short. Can you explain to  
25 the members of the jury the purpose of that statute?

1           A.     Yes.    The UFAP or unlawful flight to avoid  
2 prosecution allows -- simply stated allows us, the  
3 feds, the FBI, or the U.S. Marshal Service to help a  
4 local jurisdiction capture a fugitive, and then we  
5 pay for the expenses of bringing him back.  Once  
6 they're here, we dismiss our case and give the  
7 fugitive back to the local authority, and then  
8 they're able to execute that local warrant, now that  
9 they're back in New Mexico.

10           Q.     And what has been your experience about  
11 whether that charge is dismissed in any given case?

12           A.     Well, I've never seen it not dismissed.

13                   MR. SINDEL:  Your Honor, it's irrelevant.  
14 I don't know what it has to do with other cases.  
15 This is a single case in a single circumstance.

16                   MR. CASTELLANO:  Your Honor, the question  
17 is whether or not Jose Gomez received a benefit from  
18 dismissed charges.

19                   THE COURT:  Limit it to this case then,  
20 not to just any case.

21 BY MR. CASTELLANO:

22           Q.     Why was it dismissed in this case, Agent  
23 Acee, that charge?

24                   MS. TORRACO:  Objection.  If he knows.  
25 Improper foundation.

1 THE COURT: Well, I think he knows.

2 Overruled.

3 A. I don't want to disobey --

4 BY MR. CASTELLANO:

5 Q. You can answer. Why was it dismissed in  
6 this case?

7 A. We don't charge it. Your office doesn't  
8 charge it.

9 Q. You mean once the person is returned to  
10 the district, it's not charged any further?

11 A. Correct.

12 Q. So is that a benefit unique to Jose Gomez?

13 A. No.

14 Q. You were asked earlier -- or it came up  
15 earlier in the trial about a murderer relocated out  
16 of state and on the streets. Do you remember that?

17 A. Yes.

18 Q. Who did that refer to?

19 A. Mario Montoya, Poo Poo.

20 Q. And is that person cooperating with the  
21 Government?

22 A. Yes.

23 Q. What was the purpose of notifying people  
24 that he was on the streets in terms of the overall  
25 investigation?

1           A.     A couple of reasons. The main one being  
2     that Mario was cooperating, and Mario had long been  
3     thought of as the person who had committed the  
4     murder of Shane Dix. And I can go on. When I'm  
5     talking to SNM members and I say that Mario is still  
6     on the streets, in their minds they're thinking: A  
7     murderer is on the streets; I have a chance if I  
8     cooperate.

9           Q.     So was that kind of a tool that you used  
10    as a law enforcement officer?

11          A.     Yes.

12          Q.     The jury has heard from some people who  
13    have been charged and some people who haven't been  
14    charged in this case, including what the charges  
15    were when they were charged. What was the overall  
16    purpose of the investigation regarding the SNM  
17    prison gang?

18          A.     To dismantle the gang, to destroy,  
19    prosecute, to cause the gang to not exist anymore in  
20    New Mexico.

21          Q.     And so for someone from Gerald Archuleta,  
22    also known as Styx, who the jury heard from today --

23                   MR. LAHANN: Your Honor, may we approach?

24                   THE COURT: You may.

25                   (The following proceedings were held at

1 the bench.)

2 MR. LAHANN: Agent Stemo is still in the  
3 courtroom. I think the agreement was either one  
4 could be in the courtroom.

5 MR. CASTELLANO: That's fine.

6 MR. BECK: I think she's not a witness  
7 anymore.

8 MR. LAHANN: Is she done?

9 MR. BECK: She's obviously not going to  
10 testify to those records. We've established that.

11 THE COURT: Well, I think that was the  
12 agreement, she'd step out. So why don't you ask her  
13 to step out. I found a case, when we excuse the  
14 jury, it looks like the Tenth Circuit has spoken on  
15 the case, and they are nontestimonial.

16 MR. BECK: She will testify. We'll ask  
17 her to step out.

18 MR. CASTELLANO: Thank you for that.

19 (The following proceedings were held in  
20 open court.)

21 THE COURT: All right. Mr. Castellano.

22 BY MR. CASTELLANO:

23 Q. So as far as Gerald Archuleta is  
24 concerned, did he plead to the charge that was  
25 brought against him?

1 A. Yes, he did.

2 Q. Did you try to bring a higher charge  
3 against him related to the Julian Romero assault?

4 A. I did.

5 Q. What was the issue there in terms of  
6 bringing a higher-level charge?

7 A. I couldn't find a medical expert to agree  
8 that Mr. Romero's injuries constituted great bodily  
9 injury or serious bodily injury. So the lesser  
10 offense was all we were stuck with.

11 Q. And could you have charged him with a RICO  
12 violation?

13 A. I could. And I personally was working on  
14 his overt acts.

15 Q. And when he agreed to cooperate, how did  
16 that change things?

17 A. I stopped working on his overt acts.

18 Q. And what effects did his cooperation have  
19 on other people involved in the case?

20 A. It opened the floodgates of cooperators.  
21 If Gerald Archuleta could cooperate, any of them  
22 can. And I made that known to all of them. It also  
23 left a pretty remarkable legacy on the SNM that the  
24 famous Gerald Archuleta wore a wire against his own  
25 people.

1 Q. And was that part of his cooperation?

2 A. Yes.

3 Q. And was that in a prison facility?

4 A. Yes, it was at the Penitentiary of New  
5 Mexico, North facility.

6 Q. As far as promises to cooperators, what  
7 have you promised cooperators?

8 A. I don't promise anything. I'll take that  
9 back. I say that I promise to do my best to keep  
10 them and their families safe. I don't promise  
11 anything.

12 Q. Now, the jury has heard that from time to  
13 time people had visits with their family when they  
14 became cooperators. What was one of the reasons or  
15 the purpose for meeting with the family?

16 A. So that the family knew who in the FBI  
17 they could contact, and that in some cases that the  
18 cooperators were truly cooperating, because the  
19 family didn't believe it. They were gangsters, too.  
20 But it was to introduce my team to them so that they  
21 had a point of contact if they had concerns or  
22 questions.

23 Q. When you say "concerns," was that part of  
24 any type of threat assessment?

25 A. Yes.

1 Q. Has any witness in this case been promised  
2 WITSEC or the witness protection program?

3 A. No. I'd be foolish to promise WITSEC,  
4 because I can't guarantee it. It's not my decision.

5 Q. And have any witnesses at this point been  
6 submitted to that program for admission?

7 A. None.

8 Q. Defense counsel have asked about new cars  
9 and new houses and things of that nature. Do people  
10 in WITSEC get new houses?

11 A. No.

12 Q. What do they get when they first come into  
13 the program?

14 A. They receive -- just prior to that, they  
15 receive some job training so they can have some  
16 success. They receive usually a stipend, with a few  
17 months' rent to get them set up. They get some help  
18 from the Government in terms of a new identity so  
19 they can pass a credit check. But it's what I'll  
20 call a startup kit; then they've got to stand on  
21 their own two feet. If they don't, they're thrown  
22 out of the program.

23 Q. There was discussion about cooperators  
24 being released to the streets. Were any of the  
25 state inmates released to the streets?

1           A.     Not by the FBI. I will say the Department  
2 of Corrections allowed Eric Duran an early release.  
3 That was solely their decision. But the FBI has not  
4 released any state inmates to the street. That's  
5 not the point of our operation.

6           Q.     Have you ever made such a request to the  
7 Bureau of Prisons -- or excuse me, to the  
8 Corrections Department?

9           A.     No.

10          Q.     And Eric Duran -- what was different about  
11 him?

12          A.     The State of New Mexico awarded him two  
13 lifesaving awards, because he was the informant that  
14 was credited with saving the lives of Gregg  
15 Marcantel and Dwayne Santistevan, both state  
16 employees.

17          Q.     And the jury has heard that various  
18 letters were written regarding the attempts to  
19 murder them. Was he the person who turned letters  
20 over to the FBI?

21          A.     Yes, he is.

22                 MR. SINDEL: Your Honor, I'm going to  
23 object to that. First of all, Mr. Duran has not  
24 been called and won't be called as a witness in the  
25 case. So vouching for his character credibility is

1 irrelevant.

2 And second of all, the situation involving  
3 the two employees that Mr. Castellano referred to  
4 doesn't have anything to do with the allegations in  
5 the indictment in this case.

6 THE COURT: Well, overruled.

7 BY MR. CASTELLANO:

8 Q. Is that who Mr. Eric Duran was?

9 A. That is who he was.

10 Q. And so related to that and those letters,  
11 are those letters that you took to Sammy Griego, who  
12 also testified in these proceedings?

13 A. I think I took one letter, but yes.

14 Q. And is that the reason you approached  
15 Sammy Griego?

16 A. Yes.

17 Q. What did Sammy Griego do for the FBI?

18 A. Mr. Griego agreed to carry a phone, an  
19 FBI-purchased phone that had a wiretap on it, so we  
20 could listen to all his phone calls. He agreed to  
21 make drug, firearm buys and any other type of  
22 contraband. Simply stated, he agreed to cooperate  
23 with us, but more specifically to do buys, and to  
24 further our investigations to include the conspiracy  
25 that at that time was very important to us, that

1 conspiracy to murder the state officials.

2 Q. And was that cooperation even before  
3 anyone was charged in this case?

4 A. Yes, that was immediately. That was  
5 within weeks of my opening the case, I was in the  
6 parole office, getting in Sammy Griego's face, and  
7 seeing if he wanted -- which direction he wanted to  
8 go.

9 Q. What did he do regarding someone named  
10 Christopher Garcia?

11 A. He purchased heroin from Christopher  
12 Garcia, and I think crack cocaine. He also had  
13 lengthy conversations with him about various SNM  
14 members and criminal activities.

15 Q. And did any of those topics touch on the  
16 Marcantel murder?

17 MR. SOLIS: That's hearsay, Your Honor.

18 THE COURT: Overruled.

19 A. Yes, I believe so.

20 BY MR. CASTELLANO:

21 Q. Regarding Sammy Griego, there was  
22 discussion about him having conversations with  
23 Gerald Archuleta.

24 A. Yes, he did that at my direction.

25 Q. And were there certain things that

1 Mr. Archuleta was not willing to do at Sammy  
2 Griego's request?

3 A. Yes. We made a lot of requests of  
4 Mr. Archuleta, and he didn't bite on it.

5 Q. What types of requests?

6 A. We tried to pull him into the conspiracy  
7 to murder the state officials to see if he was  
8 interested.

9 We set up a stash house full of marijuana  
10 to see if he wanted to rob it. It was our stash  
11 house with undercovers there. He didn't want to do  
12 that.

13 We tried to see if he had drugs to sell  
14 us. He didn't. He just wanted drugs. We were  
15 trying to -- I was trying to pull him in. Like I  
16 said, I was personally working on his overt acts. I  
17 wanted to get him.

18 Q. Witnesses have been asked about a  
19 questionnaire when FBI personnel interviewed them.  
20 Who put that questionnaire together?

21 A. I did.

22 Q. What was the purpose of the questionnaire?

23 A. Well, I wanted the agents that I was  
24 working with to have a set list of questions so we  
25 didn't miss any. I wanted to mitigate agents

1 confusing the different homicides and subjects. So  
2 simply stated, it was a go-by or -- yeah, a go-by to  
3 use when questioning SNM members, particularly with  
4 agents that were not only newer to the investigation  
5 but newer to the FBI.

6 Q. What was your experience with agents who  
7 were less familiar with the investigation when they  
8 interview people?

9 A. We were making mistakes in the 302. We  
10 were making mismakes in our reports because we were  
11 confusing things that we shouldn't have been.

12 Q. And so was the purpose of the  
13 questionnaire then to try to make sure that the  
14 right questions were asked of the right people?

15 A. Yes.

16 Q. How many people interviewed did you  
17 actually give the questionnaire to, as opposed to  
18 asking questions off the questionnaire?

19 A. One that I can think of.

20 Q. Who was that person?

21 A. Frederico Munoz.

22 Q. And why was his case different?

23 A. His attorney had some time constraints,  
24 and I was anxious to get the responses back, so I  
25 ran the idea by his attorney. I don't think I ran

1 the idea by any of the prosecutors. And the defense  
2 attorney and I thought it was a good idea, and we  
3 did that. And that was the only time I did that.

4 Q. Going back to dismantling of the gang,  
5 were some of these people long-time gang members?

6 A. Yes. I can't think of one who was a  
7 freshly minted gang member. Yes.

8 Q. And so people who had been in the gang for  
9 a period of time -- were there times when they had  
10 difficulties serving as cooperators?

11 A. Yes. Some of the guys had identity crises  
12 that would last for months. You know, one day  
13 they're a cooperator, the next day they think they  
14 can go back to the gang. And I would argue with  
15 them that they were done; they'd already talked to  
16 us and that there was no going back.

17 Q. And so for people who the jury hasn't  
18 heard from, are there -- in the discovery are there  
19 reports of them interviewing with the FBI or giving  
20 information to the FBI?

21 A. Yes.

22 Q. So for those people who aren't even  
23 witnesses, is that something that causes them not to  
24 be able to go back to the gang?

25 A. Yes. And it's purposeful on our part.

1 Keep in mind what the goal is here: To dismantle  
2 the gang. And snitches can't be gang members.

3 Q. Going back to the questionnaire and  
4 debrief, did you always have the time that you  
5 wanted to spend with people to interview them?

6 A. No. You mentioned the questionnaire.  
7 That took about -- for me, experienced in the case  
8 and having asked the questions and interviewed lots  
9 of members, it would take me about four hours to go  
10 through the questionnaire. A lesser-experienced  
11 agent longer.

12 Q. So at times, were there then questions  
13 that were left unanswered?

14 A. Oftentimes there were, yes.

15 Q. And from your experience in the case now  
16 for over two years, what's been the difference  
17 between gathering information in a debrief and  
18 preparing witnesses for trial?

19 A. Well, you have to understand that as  
20 agents, there's a lot of issues there. But what I  
21 was going to start off by saying, as agents, we're  
22 trying to develop probable cause to make charges so  
23 that I can swear out a complaint or I can testify  
24 before the grand jury. When I bring that to the  
25 U.S. Attorney's Office to prosecute the case, their

1 focus is a little bit different. Their standard is  
2 different than mine is. Not to say we don't work  
3 together, and we do. But the prosecutors have a  
4 laser focus on that proof beyond a reasonable doubt.  
5 And I oftentimes have --

6 MR. SINDEL: Your Honor, may we approach?

7 THE COURT: You may.

8 (The following proceedings were held at  
9 the bench.)

10 THE COURT: I'm working on Ms.  
11 Harbour-Valdez's CJA vouchers. Should I stop and  
12 reject them?

13 MR. SINDEL: Well, we all vouch for  
14 something. But I just think that it looks like he's  
15 going to be vouching for this prosecution. I'm  
16 concerned that he's going to end up saying they look  
17 at reasonable doubt, they decide that they can prove  
18 the case beyond a reasonable doubt, and therefore  
19 they bring it to court. This is a very dangerous  
20 area. I don't see what the relevance is. He's  
21 already mentioned what his job is with the FBI.

22 THE COURT: Well, the particular question  
23 here is: What's the difference between gathering  
24 information and a debrief and preparing these people  
25 for trial? Either today or yesterday the

1 Government -- the cooperators took a pretty big  
2 beating. But it's just rehearsal; it's practice  
3 questions and answers. I think I've got to give  
4 them a little room to tell the difference between  
5 the two.

6 MR. SINDEL: I understand that, but I also  
7 think that he's sort of going off in a different  
8 direction. I think that the answer does not have to  
9 be what the process is through the U.S. Attorney's  
10 Office. You make an assessment about the value of a  
11 particular debrief and whether it's sufficient to  
12 bring a case to court because they have made a  
13 decision that they can prove their case beyond a  
14 reasonable doubt.

15 THE COURT: The particular question here I  
16 think is not objectionable.

17 MR. SINDEL: If he leads him, maybe we can  
18 avoid getting to that area.

19 THE COURT: I'm sure Mr. Castellano would  
20 have no problem leading.

21 MR. SINDEL: He has been good at it in the  
22 past.

23 MR. CASTELLANO: I try to go back to  
24 open-ended questions and I can't win.

25 THE COURT: You go to the podium and you

1 do what you want, and we'll see what they do.

2 MR. CASTELLANO: Sounds good.

3 MR. SINDEL: Can I join him?

4 (The following proceedings were held in  
5 open court.)

6 THE COURT: Mr. Castellano.

7 BY MR. CASTELLANO:

8 Q. Is it fair to say that the focus changes  
9 as cooperators are looking toward trial as opposed  
10 to providing general information about the gang?

11 A. Yes.

12 Q. For example, if we're going to trial  
13 against four people or seven people, has it been  
14 your experience that now we're focused on those four  
15 people for trial?

16 A. Yes.

17 Q. And has it been done earlier this year as  
18 well?

19 A. Yes, it was.

20 Q. Witnesses have been asked about being  
21 harmed. Have you had any cooperators harmed in this  
22 case?

23 A. Yes.

24 Q. What happened to that person?

25 A. He was shot eight times. After he was

1 released from the hospital, his house was  
2 fire-bombed.

3 Q. Did he survive?

4 A. Yes.

5 MR. CASTLE: Judge, you know, I object.  
6 First of all, we don't know anything about this.  
7 And number two --

8 THE COURT: Maybe we'll learn. Overruled.

9 MR. CASTLE: -- it's not relevant to any  
10 of these clients because there --

11 THE COURT: Well, there's been a lot of  
12 attack on the fact that there's no reason for these  
13 cooperators to fear. So let's listen to the  
14 testimony. Overruled.

15 BY MR. CASTELLANO:

16 Q. Do you attribute that to any of the  
17 defendants here in court today? Let's clear that  
18 up.

19 A. No.

20 Q. Do you attribute that to cooperation  
21 against the SNM Gang?

22 A. Yes.

23 Q. Is that person cooperating anymore?

24 A. Not with me. Not with the FBI, no.

25 Q. I want to turn your attention to the

1 Gallegos brothers at this point. And there was a  
2 discussion about handcuffs in this case. Do you  
3 remember that?

4 A. Yes.

5 Q. Are you aware of any database for tracking  
6 down handcuffs?

7 A. There is no such database.

8 Q. What about even with them having serial  
9 numbers on them?

10 A. The handcuffs in this case, there have  
11 been two that I've mentioned, they're both  
12 manufactured by Smith and Wesson, and both contain  
13 serial numbers.

14 Q. Any way to track those?

15 A. No.

16 Q. Have you made efforts to try to track  
17 those?

18 A. I have.

19 Q. And did that come about as questioning  
20 about handcuffs came up in this case?

21 A. Yes.

22 Q. And as a result of those questions, did  
23 you look further into that?

24 A. Did I look for what?

25 Q. Did you look further into that topic?

1 A. Yes.

2 Q. And are you able to track down any  
3 information even though they have serial numbers on  
4 them?

5 A. No.

6 Q. I want to ask you if you found any  
7 SNM-related materials at Joe and Andrew Gallegos'  
8 trailer when you executed that warrant at that  
9 residence.

10 A. Yes, we did.

11 MR. SINDEL: Your Honor, may I voir dire  
12 the witness concerning the exhibits that they're  
13 about to show him?

14 THE COURT: Let him show him and lay his  
15 foundation, and then I'll let you voir dire. But  
16 let him lay whatever foundation he wants to attempt  
17 to do, and then I'll let you voir dire.

18 MR. CASTELLANO: I'll let defense counsel  
19 look at those photos for a second.

20 BY MR. CASTELLANO:

21 Q. Did I show you those photos earlier today?

22 A. Yes.

23 Q. And do you recognize those as photos that  
24 were taken at the residence at 04 Erin Court?

25 A. Yes.

1 Q. And when was that warrant executed, if you  
2 recall?

3 A. Off the top of my head, I think it was  
4 April of 2016. I have some notes over there at my  
5 chair that have the exact date. I didn't expect to  
6 be called up here quite so soon.

7 Q. So April 2016?

8 A. I believe so.

9 Q. What types of things were you looking for  
10 at that time?

11 A. Evidence of racketeering and evidence  
12 related to the murder of Adrian Burns.

13 THE COURT: All right. Shall we take  
14 those photographs and take a little bit of time on  
15 them and take them up on Monday?

16 MR. CASTELLANO: Sure, Your Honor. That's  
17 fine.

18 EXCERPT CONCLUDED  
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1 THE COURT: Y'all have worked very hard.  
2 Thank you for everything you've done for us. You've  
3 worked beautifully and done everything we've asked  
4 you to do.

5 Next week we may be shifting some gears,  
6 so you may be back in the room a little bit during  
7 the week. If you crochet, do some other things,  
8 read or something, you might want to bring stuff  
9 because there may be some breaks that are a little  
10 longer than you've gotten. So you may want to bring  
11 those.

12 Happy Mother's Day on Sunday. My wife is  
13 coming in from Dallas and so I'm going to drive back  
14 tonight and see her, buy her supper at Sadie's, if I  
15 can get there, and take her to Les Mis tomorrow and  
16 Tamaya on Sunday, and we've got graduations. I'm  
17 sure that your life is filled with those things,  
18 too. Have a good Mother's Day weekend, we'll see  
19 you on Monday morning. Y'all be safe in your  
20 travels.

21 (The jury left the courtroom.)

22 THE COURT: All right. There seems to be  
23 a Tenth Circuit case that is on point on these  
24 telephone records with the 90211 certificate. I've  
25 reviewed the certificate. It meets all the

1 qualifications for the hearsay exception in 9211.  
2 Tenth Circuit and many other circuits have said  
3 these are not testimonial. And Tenth Circuit has in  
4 a -- I believe it's a published opinion, United  
5 States v. Yeley, Y-E-L-E-Y, Davis. 632 -- no, this  
6 is unpublished. 632 F.3d. 673, 2011 U.S. Lexis  
7 1053. So on that basis I will admit Government's  
8 Exhibit 948 into evidence.

9 (Government Exhibit 948 admitted.)

10 THE COURT: Let's see. Is there anything  
11 else I need to do?

12 MR. CASTLE: Your Honor, the defense  
13 requested discovery on this relatively -- this  
14 brand-new information about the fire-bombing and --

15 THE COURT: Okay. Well, talk to the  
16 Government about it if it's new information. And if  
17 not, if necessary, we can take it up on Monday.

18 Let me encourage the Government, don't go  
19 back and look at files all weekend and find new  
20 information.

21 MS. ARMIJO: I just wanted to make sure we  
22 didn't have to call T-Mobile.

23 THE COURT: If you haven't gotten it  
24 across the line now, you're probably not going to  
25 get it across. Don't try to use all the extra time.

1 Just bring it in for a landing. It's time to hear  
2 from the defendants.

3 Have a good weekend, good Mother's Day, be  
4 safe. Appreciate y'all's hard work. See y'all on  
5 Monday.

6 (The Court stood in recess.)  
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1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 16th day of May, 2018.

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